

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: FAIRFIELD SENTRY LIMITED, et al., Debtor in Foreign Proceedings.	Chapter 15 Case Case No. 10-13164 (CGM) Jointly Administered
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. ABN AMRO SCHWEIZ AG, et al., Defendants.	Adv. Pro. No. 10-03635 (CGM)
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. ABN AMRO SCHWEIZ AG, et al., Defendants.	Adv. Pro. No. 10-03636 (CGM)

JOINT MOTION TO FILE UNDER SEAL
MOTION FOR SANCTIONS AND CERTAIN EXHIBITS

Kenneth M. Kryz and Greig Mitchell, in their capacities as the duly appointed Liquidators and Foreign Representatives of Fairfield Sentry Limited (In Liquidation) and Fairfield Sigma Limited (In Liquidation) (the “Liquidators”), and BNP Paribas (Suisse) SA, BNP Paribas (Suisse) SA Ex Fortis, BNP Paribas (Suisse) SA Private (“Defendants”) (“BNP Suisse” or “Defendants”) (together the “Parties”) respectfully jointly move pursuant to Local Bankruptcy Rule 9018-1 and the Parties’ so-ordered Stipulation and Confidentiality Agreement and Protective Orders (the

“Protective Orders”) entered in *Fairfield Sentry Limited (In Liquidation) v. ABN AMRO Schweiz AG*, Adv. Pro. No. 10-03636, Dkt. No. 918 ¶ 12 (Bankr. S.D.N.Y. February 16, 2022) and *Fairfield Sentry Ltd. (In Liquidation) v. ABN AMRO Schweiz AG*, Adv. Pro. No. 10-03635, Dkt. No. 849 ¶ 12 (Bankr. S.D.N.Y. February 16, 2022), for an Order permitting the Parties to file under seal the (i) Liquidators’ Motion for Sanctions (the “Motion for Sanctions”), and (ii) Exhibits 1, 4-10, 12-17, 19, 24 to the Declaration in support of that Motion which have been designated as “Confidential” or “Highly Confidential.” The documents submitted for sealing are submitted herewith.

The Motion for Sanctions relies on documents designated by third parties as “Confidential” under the Protective Orders, as set forth in the Declaration in Support of the Motion for Sanctions. The Liquidators reserve the right to later challenge these confidentiality designations pursuant to the Protective Orders. Protective Orders at ¶ 4.

The Liquidators’ Motion for Sanctions also extensively relies on a transcript of a December 15, 2022 30(b)(6) deposition of BNP Suisse’s designee, Stephanie Gyetvan (the “Deposition Transcript”), attached to the Declaration in support of the Motion for Sanctions as Exhibit 1 thereto. BNP Suisse designated the Deposition Transcript as “Confidential” under the Protective Orders. *See* Deposition Transcript, Declaration in Support of the Motion for Sanctions Ex. 1 at 92:5-8. The Liquidators disagree with BNP Suisse’s designation of the Deposition Transcript as “Confidential,” and have reserved their right to move for an order declassifying the transcript as “Confidential” if the parties are not able to resolve the dispute through the meet-and-confer process. Protective Orders at ¶ 4 (process to declassify designated material). BNP Suisse reserves the right to oppose that motion to declassify.

Nevertheless, because the Protective Orders require that any party intending to refer to “Confidential” material in briefing must request that the court seal that material, Protective Orders

¶ 12, the Liquidators hereby request that the Court seal the Motion for Sanctions, and the Exhibits to the Declaration in support of that Motion that have been designated “Confidential” by Defendants or third parties. BNP Suisse joins in that motion.

The Parties respectfully request that the Court grant this Sealing Motion. The Parties also respectfully request permission to file copies of sealed documents with the Clerk of Court through electronic means, rather than in hard copy. A proposed order to that effect has been submitted to eOrders, consistent with this Chambers’ Rules.

Dated: New York, NY
January 20, 2023

Respectfully submitted,

By: /s/ David Elsberg
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